

Appln. Serial No. 09/773,118  
Amendment Dated April 3, 2007  
Reply to Office Action Mailed January 4, 2007

REMARKS

In the Office Action dated January 4, 2007, claims 1, 2, 5-15, 19-22, 34, 35, 39, 41, 42, 44, and 46-56 were rejected under the doctrine of non-statutory obviousness-type double patenting over claims 1-20 of U.S. Patent No. 6,724,409 (the '409 patent) in view of U.S. Patent No. 6,587,969 (Weinberg); claims 1-22, 39, and 41-52 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 6,298,474 (Blowers) in view of Swing Tutorial: JTree (JTree); and claims 34 and 35 were rejected under § 103 over Blowers in view of JTree and further in view of Weinberg.

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### OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Independent claim 1 was rejected under the doctrine of obviousness-type double patenting over claims 1-20 of the '409 patent in view of Weinberg. The Office Action conceded that the '409 patent does not disclose a second window that presents results of execution of the sequence that includes plural devices and associated commands arranged as a hierarchical tree structure. 1/4/2007 Office Action at 4. The Office Action cited Figs. 3A, 4A, and 5F of Weinberg as disclosing this feature. *Id.* However, it is respectfully submitted that claim 1 is non-obvious over claims of the '409 patent in view of Weinberg, for at the reason that the hypothetical combination of the claims of the '409 patent and Weinberg do not disclose or suggest the subject matter of claim 1.

As taught by Weinberg, Fig. 3A illustrates an example execution log that "displays information regarding each *step* taken ...." Weinberg, 16:54-56. Weinberg further discloses that the execution log provides information for each business process, such as the VA03 process 304 as illustrated in Fig. 3A of Weinberg. Another step depicted in Fig. 3A is the order step 306 (*see* Fig. 3A of Weinberg). Thus, it is clear that the execution log of Fig. 3A of Weinberg depicts various steps of a business process for a particular iteration (iteration 1 in Fig. 3A). Fig. 3A of Weinberg does not teach or suggest a window that presents results of execution of a sequence that includes *plural devices* and associated commands arranged as a hierarchical tree structure, where each of the devices in the sequence is at a different hierarchical level than a hierarchical level of one or more commands associated with the device, as recited in claim 1 of the present application. Figs. 4A and 5F of Weinberg similarly do not disclose or suggest this feature of the claim.

Therefore, since the hypothetical combination of the claims of the '409 patent and Weinberg does not teach or suggest the claimed invention, claim 1 is non-obvious over the claims of the '409 patent and Weinberg.

Independent claims 14, 34, and 46 are similarly non-obvious over claims of the '409 patent and Weinberg.

Therefore, withdrawal of the obviousness-type double patenting rejection is respectfully requested.

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### REJECTIONS UNDER 35 U.S.C. § 103

#### Claim 1

Claim 1 was rejected as being obvious over Blowers in view of JTree.<sup>1</sup> The Office Action conceded that Blowers does not disclose "presenting plural devices." 1/4/2007 Office Action at 6. In view of this concession by the Office Action, it is clear that Blowers does not disclose a first window that presents a first panel configured to present *plural devices* and associated commands of a sequence as a hierarchical tree structure, where each of *the devices* in the sequence is at a different hierarchical level than a hierarchical level of one or more commands associated with the device, and where the first window presents a second panel configured to present one or more available commands and *devices* for adding commands and *devices* to the sequence.

It is respectfully submitted that the citation of JTree as supplying the motivation or suggestion to modify Blowers to achieve the claimed invention is erroneous. Contrary to the assertion in the Office Action, there existed no motivation or suggestion to combine the teachings of Blowers and JTree.

Blowers refers to a method that includes developing a graphical, control-flow structure such as a tree structure and associated application software for use in a machine vision system. Blowers also mentions that the method further includes the step of displaying graphical representations of possible hardware and possible machine vision tasks. Blowers, 3:14-35 (Summary section). The display of graphical representations of possible hardware and possible machine vision tasks mentioned in the Summary section of Blowers corresponds to the more detailed description associated with Fig. 5 of Blowers. Fig. 5 illustrates various icons of a toolbox for vision tools that are selectable by a user. Blowers, 9:32-34. Blowers states that a user can interactively build machine vision applications for programs using the controls depicted in Fig. 5. The icons can be selected from the toolbox of Fig. 5, which icons correspond to desired functional tasks, for linking into the tree structure of Fig. 6. Blowers, 8:64-67.

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<sup>1</sup> The introductory sentence in paragraph 6 on page 5 of the Office Action referred to the incorrect patent number when referencing Blowers. Paragraph 6 of the Office Action referred to U.S. Patent No. 6,724,409. The actual patent number of Blowers is U.S. Patent No. 6,298,474. A review of the body of the rejection indicates that the obviousness rejection is intended to be over Blowers, U.S. Patent No. 6,298,474.

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Fig. 6 of *Blowers* shows a tree structure with a root labeled "Product Name," which corresponds to the product folder described in column 10, lines 17-22, of *Blowers*. In this passage, *Blowers* states that the product folder represents the lowest level of the tree structure. **Significantly**, *Blowers* also states that "[o]nly *one* product folder can be viewed from the task sequencer at one time." *Blowers*, 10:19-20 (emphasis added). The limitation in *Blowers* that *only one* product folder can be viewed at one time is inconsistent with the ability of a first panel configured to present plural *devices* and associated commands of a sequence as a hierarchical tree structure, as recited in claim 1.

The teaching by *Blowers* that *only one* product folder can be viewed at one time would have led a person of ordinary skill in the art away from modifying *Blowers* to achieve the claimed invention. It is well established law that the "PTO has the burden under section 103 to establish a *prima facie* case of obviousness." *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). The PTO "can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." *Id.* In this case, *Blowers* specifically teaches that *only one* device is to be viewed at one time, which is *objective evidence* that there existed no motivation or suggestion to combine *Blowers* with *JTree*.

In fact, *Blowers* would have suggested to a person skilled in the art that it would *not* be desirable to display a sequence having multiple devices and associated commands, as recited in claim 1. "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the *desirability* of the modification." *In re Fritch*, 972 F.2d 1260, 1266, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992) (emphasis added). Here, instead of suggesting the desirability of presenting multiple devices and associated commands in a first window of a display device, *Blowers* actually teaches the opposite. Therefore, it is clear that a *prima facie* case of obviousness has not been established in view of the fact that no motivation or suggestion existed to combine the teachings of *Blowers* and *JTree*. See M.P.E.P. § 2143 (8<sup>th</sup> ed., Rev. 5), at 2100-126.

Moreover, it is respectfully submitted that the hypothetical combination of *Blowers* and *JTree* does not teach or suggest all elements of claim 1. As noted above, *JTree* fails to teach or suggest the first window for presenting a sequence as a hierarchical tree structure that includes

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devices and associated commands, where each of the devices in the sequence is at a different hierarchical level than a hierarchical level of the one or more commands associated with the device. JTree refers to an abstract data structure (referred to as JTree) to represent hierarchical data as a tree of nodes. The Office Action cited specifically to Section 5.2 of JTree, which presents several example JTree data structures, each of which includes a root node, children nodes, and grandchildren nodes. There is no suggestion whatsoever in JTree of using the JTree data structure to present *plural devices* and *associated commands* of a sequence as a hierarchical tree structure. The abstract tree data structure described in JTree clearly makes no reference to devices and associated commands of a sequence.

Therefore, since JTree does not teach or suggest elements of claim 1 that are conceded by the Office Action to be missing from Blowers, it is respectfully submitted that the hypothetical combination of Blowers and JTree fails to teach or suggest *all* elements of claim 1. Therefore, a *prima facie* case of obviousness has not been established with respect to claim 1 for at least this additional reason. See M.P.E.P. § 2143, at 2100-126.

#### Claim 14

The obviousness rejection of independent claim 14 is also defective. With respect to claim 14, the Office Action stated that the claim was rejected "for the same reasons set forth in connection with the rejection of claims 1, 2, 5-10 above." 1/4/2007 Office Action at 9. Claim 14 recites displaying, in a second window, results of execution of the sequence in response to selection of a second option, where the results displayed contain the commands in the sequence and information identifying *devices* associated with the commands. In the rejection of dependent claim 9, the Office Action cited column 9, lines 7-25, of Blowers as disclosing that the presented results include a device associated with a displayed commands. However, note that this cited passage of Blowers clearly does not disclose displaying results that contain commands and information identifying *devices* (note plural sense of "devices") associated with the commands. Therefore, the hypothetical combination of Blowers and JTree clearly does not teach or suggest at least the last displaying clause of claim 14. Moreover, as discussed above with respect to claim 1, no motivation or suggestion existed to combine the teachings of Blowers and JTree.

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Therefore, a *prima facie* case of obviousness has also not been established with respect to claim 14.

#### Claim 46

Independent claim 46 was also incorrectly rejected as being obvious over Blowers and JTree. With respect to claim 46, the Office Action stated that claim 46 is the computer program version of claims 5-11 and 42, respectively. 1/4/2007 Office Action at 10. It is noted that none of claims 5-11 and 42 recite displaying a sequence of steps on a display device, where the steps *include* respective devices and commands. Therefore, the Office Action has failed to provide specific reasons regarding how Blowers and JTree disclose or suggest each and every element of claim 46.

Moreover, it is respectfully submitted that, as discussed above with respect to claim 1, no motivation or suggestion existed to combine the teachings of Blowers and JTree. Additionally, it is respectfully submitted that the hypothetical combination of Blowers and JTree clearly fails to teach or suggest displaying a sequence of steps on a display device, where the steps include respective devices and commands. As noted above, Blowers teaches that only one product folder can be viewed at one time. JTree does not teach or suggest displaying a sequence of steps that include respective *devices* and *commands*.

In view of the foregoing, it is respectfully submitted that a *prima facie* case of obviousness has clearly not been established with respect to claim 46.

#### Claim 34

Independent claim 34 was rejected as being obvious over Blowers, JTree, and Weinberg. In view of the fact that no motivation or suggestion existed to combine the teachings of Blowers and JTree, it is respectfully submitted that there existed no motivation or suggestion to combine the teachings of Blowers, JTree, and Weinberg.

Claim 34 recites a display device in communication with a processor, wherein when the processor executes logic configured to generate a GUI, a first window is displayed on the display device that displays both a sequence in a first portion of the first window and a list of one or more commands in a second portion of the first window, and wherein the displayed sequence is

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in a hierarchical tree structure in which *plural devices* and associated commands are at different hierarchical levels. These features are not disclosed or suggested by the hypothetical combination of Blowers, JTree, and Weinberg.

In view of the foregoing, it is respectfully submitted that a *prima facie* case of obviousness has also not been established with respect to claim 34.


Conclusion

Dependent claims are allowable for at least the same reasons as corresponding independent claims.

In view of the foregoing, allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (10004943-1).

Respectfully submitted,

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